

**ENTERED**

November 30, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

EMMANUEL AVILA,  
Petitioner,

VS.

LORIE DAVIS, Director, Texas  
Department of Criminal Justice,  
Correctional Institutions Division,  
Respondent.

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CIVIL ACTION NO. 7:18-CV-168

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION  
AND GRANTING DISMISSAL**

The Court has reviewed the magistrate judge's Report and Recommendation regarding Petitioner Emmanuel Avila's action pursuant to 28 U.S.C. § 2254. After having reviewed the said Report and Recommendation, and no objections having been filed by either party, the Court is of the opinion that the conclusions in said Report and Recommendation should be adopted by this Court.

It is, therefore, **ORDERED, ADJUDGED** and **DECREED** that the conclusions in United States Magistrate Judge Juan F. Alanis' Report and Recommendation entered as Docket Entry No. 13 are hereby adopted by this Court.

FURTHER, the Court, having adopted the magistrate judge's conclusions, is of the opinion that Respondent's Motion for Summary Judgment should be **GRANTED**, that a certificate of appealability should be **DENIED**, and that Petitioner's Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 should be **DISMISSED**.

The Clerk shall send a copy of this Order to the Petitioner and counsel for Respondent.

SO ORDERED this 30th day of November, 2018, at McAllen, Texas.

A handwritten signature in black ink, reading "Randy Crane". The signature is written in a cursive, slightly stylized font. The "R" is large and loops around the "a", and the "C" is also large and loops around the "e". The signature is positioned above a horizontal line.

Randy Crane  
United States District Judge